

§ 872.11 Abandoned Mine Reclamation Fund.

(a) Revenue to the Fund shall include—

(1) Reclamation fees collected under section 402 of the Act and part 870 of this chapter;

(2) Amounts collected by OSM from charges for use of land acquired or reclaimed with moneys from the Fund under part 879 of this chapter;

(3) Moneys recovered by OSM through satisfaction of liens filed against privately owned lands reclaimed with moneys from the Fund under part 882 of this chapter;

(4) Moneys recovered by OSM from the sale of lands acquired with moneys from the Fund or by donation; and

(5) Moneys donated to OSM for the purpose of abandoned mine land reclamation.

(6) Interest and any other income earned from investment of the Fund. Such interest and other income shall be credited only to the Federal share. In addition, an amount equal to the interest earned after September 30, 1992, shall be available pursuant to Section 402(h) of the Act for possible future transfer to the United Mine Workers of America Combined Benefit Fund.

(b) Moneys deposited in Fund and appropriated by the Congress shall be used for the following purposes:

(1) An amount equal to 50 percent of the reclamation fees collected from within a State shall be allocated at the end of the fiscal year to the State in which they were collected. Reclamation fees collected from Indian lands shall not be included in the calculation of amounts to be allocated to a State. If a State advises OSM in writing that it does not intend to submit a State reclamation plan, no monies shall be allocated to the State. Amounts granted to a State that have not been expended within three years from the date of grant award shall be available to the Director for other purposes under paragraph (b)(5) of this section. Such funds may be withdrawn from the State if the Director finds in writing that the amounts involved are not necessary to carry out the approved reclamation activities.

(2) An amount equal to 50 percent of the reclamation fees collected from In-

dian lands shall be allocated to the Indian tribe or tribes having an interest in those lands. This shall occur at the end of the fiscal year in which the fees were collected. If an Indian tribe advises OSM in writing that it does not intend to submit an Indian reclamation plan, no monies shall be allocated to that Indian tribe. Amounts granted to an Indian tribe that have not been expended within three years from the date of grant award shall be available to the Director for other purposes under paragraph (b)(5) of this section. Such funds may be withdrawn from the Indian tribe if the Director finds in writing that the amounts involved are not necessary to carry out the approved reclamation activities.

(3) An amount equal to the 10 percent of the monies collected and deposited in the Fund annually, as well as 20 percent of the interest and other miscellaneous receipts to the Fund, if such amount is not necessary pursuant to Section 402(h) of the Act for transfer to the United Mine Workers of America Combined Benefit Fund, shall be allocated by the Secretary for transfer to the U.S. Department of Agriculture's Rural Abandoned Mine Program.

(4) An amount equal to 40 percent of the monies deposited in the Fund annually, including interest, if not required to satisfy the provisions of Section 402(h) of the Act, shall be allocated for use by the Secretary to supplement annual grants to States and Indian tribes after making the allocations referred to in paragraphs (b)(1) and (2) of this section. States and Indian tribes eligible for supplemental grants under this provision are those that have not certified the completion of all coal-related reclamation under Section 411(a) of the Act and that have not achieved the priorities stated in paragraphs (1) and (2) of Section 403(a) of the Act. The allocation of these monies by the Secretary to eligible States and Indian tribes shall be through a formula based upon the amount of coal historically produced prior to August 3, 1977, in the State or from the Indian lands concerned. Funds to be granted to specific States or Indian tribes under this paragraph may be reduced or curtailed under the following two conditions:

(i) If State or Indian tribal share funds to be granted in a year are sufficient to address all remaining eligible priority 1 or 2 coal sites in the State or on Indian lands, no additional funds under this paragraph will be provided during that year; or

(ii) If the cost to reclaim all remaining priority 1 or 2 coal sites in a specific State or on a specific Indian tribe's land exceeds the amount of State or Indian tribal share funds to be granted in a year to that State or Indian tribe pursuant to Section 402(g)(1) of the Act, but is less than the total amount of funds to be granted to the State or Indian tribe in that year utilizing State or Indian tribe and Federal funds under paragraphs (b) (1), (2), (3), and (4) of this section, the Federal funds granted under this paragraph will be reduced to that amount needed to fully fund all remaining priority 1 or 2 coal sites after utilizing all available State or Indian tribe share funds.

(5) Amounts available in the Fund that are not allocated pursuant to paragraphs (b) (1), (2), (3), and (4) of this section are authorized to be expended by the Secretary for any of the following:

(i) The Small Operator Assistance Program under Section 507(c) of the Act (not more than \$10,000,000 annually).

(ii) Emergency projects under State, Indian tribal, and Federal programs under Section 410 of the Act.

(iii) Nonemergency projects in States and on Indian tribal lands that do not have an approved abandoned mine reclamation program pursuant to Section 405 of the Act.

(iv) Administration of the Abandoned Mine Land Reclamation Program by the Secretary.

(v) Projects authorized under Section 402(g)(4) in States and on Indian lands that do not have an approved abandoned mine reclamation program pursuant to Section 405 of the Act.

(6) If necessary to achieve the priorities stated in paragraphs 403(a) (1) and (2) of the Act, the Secretary, subject to the provision below, shall grant annually not less than \$2,000,000 for expenditure in each State and Indian tribe having an approved abandoned mine land program, provided however, that

annual State or Indian tribe share funds are utilized first, and that supplemental funds granted under this paragraph and paragraph (b)(4) of this section shall not exceed the costs of reclaiming all remaining priority 1 or 2 coal sites in a State or on Indian tribal land.

(7) Funds allocated or expended annually by the Secretary under Sections 402(g) (2), (3), or (4) of the Act for any State or Indian tribe shall not be deducted from funds allocated or granted annually to a State or Indian tribe under the authority of Sections 402(g) (1), (5), or (8) of the Act.

(8) The Secretary shall expend funds pursuant to the authority in Section 402(g)(3)(C) of the Act only in States or on Indian lands where the State or Indian tribe does not have an abandoned mine reclamation program approved under Section 405 of the Act.

(c) Money deposited in State or Indian Abandoned Mine Reclamation Funds shall be used to carry out the reclamation plan approved under part 884 of this chapter and projects approved under part 888 of this chapter.

[47 FR 28595, June 30, 1982, as amended at 59 FR 28169, May 31, 1994]

§ 872.12 State/Indian Abandoned Mine Reclamation Funds.

(a) Accounts to be known as State or Indian Abandoned Mine Reclamation Funds shall be established in each State or Indian tribal government with approved reclamation plans. These funds will be managed in accordance with the Office of Management and Budget Circular A-102.

(b) Revenue shall include—

(1) Amounts granted by the OSM for purposes of conducting the approved State reclamation plan;

(2) Moneys collected from charges for uses of land acquired or reclaimed with moneys from the State Fund under part 879 of this chapter;

(3) Moneys recovered through the satisfaction of liens filed against privately owned lands;

(4) Moneys recovered by the State from the sale of lands acquired under Title IV of the Act; and

(5) Such other moneys as the State decides should be deposited in the Fund